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Valentino GITTO (Owner of the trademark)
147 Route de St Pierre de Feric
06000 Nice
France

Application Serial N° **79061192**

Filing date: 2008-09-19

Mark: POSITIVE AGEING

International Registration N° **0982863**

UNITED STATES PATENT AND TRADEMARK OFFICE

Trial and Appeal Board

P.O Box 1451

ALEXANDRIA, VA 22313-1451

TO THE ATTENTION OF NICOLE M. THIER

Ms Their,

I am sorry for my late answer; this is due to the fact that I wanted to take a specialized lawyer to make the answer to the opposition, but I cannot afford it. Then I had to make the answer myself, and as I am not very fluent in English, it has been difficult and long.

I would like you accept the extension time for my answer.

You will find attached the answer to the opposition.

You're faithfully

Valentino Gitto



02-15-2011

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VALENTINO GITTO,

Applicant.

V.

JOHNSON & JOHNSON

Opposer,

ANSWER TO OPPOSITION

Valentino Gitto, a French individual with an address at 147 Route de saint Pierre de Feric, 06000 Nice, France ("Applicant"), applied for registration of its brand POSITIVE AGEING & Design for "soaps; perfumes, essential oils, cosmetics, hair lotions; dentifrices; make-up removing preparations; beauty masks; shaving products, namely, shaving balm, shaving cream, shaving gel, and shaving mousse" in Class 3 and "medical services; hygienic and beauty care for human beings or animals; plastic surgery; nursing homes with medical care; beauty salons; hairdressing salons" in Class 44; filed on September 19, 2008; based on International Reg. No. 0982863.

Valentino Gitto believes that the "Opposer" Johnson & Johnson, a New Jersey corporation, having a principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933-7001, abuses and take advantage of its dominant position in the US market to oppose to the registration of "Positive Ageing" in the United states of America.

1. "Applicant", has been working hard to create and develop a full concept base on the "Positive ageing" philosophy in order to help people to age in a better positive attitude. "Positive ageing" is a concept that applies to more than a product. It encompasses machines, services and also clinics where one will be able to find a range of solutions to help people to age better. This

concept is not based on cosmetics only, but takes into consideration many other elements such as biotechnologies, diet, exercise, lifestyle, etc...

2. The cosmetics are a small part of the "Positive ageing" concept, and are sold mainly to professionals on Business to business base, not directly to Consumer.

3. The Opposer owns Reg. No. 3,605,906 — POSITIVELY AGELESS for "skin care preparations, namely, skin cleansers, skin moisturizers, skin creams and serums, eye creams" in Class 3.

The meaning of POSITIVELY AGELESS is totally different than the meaning of "POSITIVE AGEING"

4. Applicant's POSITIVE AGEING & Design mark is very different to Opposer's POSITIVELY AGELESS mark in appearance, sound and meaning.

5. The goods in connection with which Opposer uses and has registered the POSITIVELY AGELESS mark and the goods and services covered by application Ser. No.

79/061,192 — POSITIVE AGEING & Design are likely to be sold through different channels of trade. Positive ageing concept and goods are sold to professionals on B to B channel, when POSITIVELY AGELESS products are sold to end consumers.

6. The goods in connection with which Opposer uses and has registered the POSITIVELY AGELESS mark and the goods and services covered by application Ser. No. 79/061,192 — POSITIVE AGEING & Design are sold to different class of consumers which goes to beauty professional for

7. The use and registration by Applicant of the POSITIVE AGEING & Design mark for the goods and services covered by application Ser. No. 79/061,192 cannot cause any confusion or mistake, as American consumers know the difference between the words "AGELESS" and "AGEING". Firstly with regard to the meaning of the trademark "Positive ageing" (adverb and verb), the meaning is to age in a positive or good way. The trademark of the Opposer "Positively ageless" (adjective, noun), has a very different connotation in English meaning absolutely shows no sign of age.

For the reasons set forth above, Applicant believes that POSITIVE AGEING & Design cannot create any damage to the Opposer.

Respectfully,

Valentino Gitto

